

Notice of Allowability

Application No.

09/836,474

Applicant(s)

LEUNG ET AL.

Examiner

Humera N. Sheikh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09 June 2005.
2. ☒ The allowed claim(s) is/are ¹⁹18, 21-28 and 30.
3. ☒ The drawings filed on 18 April 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 04/18/01
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 8/8/05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

DETAILED ACTION

Status of the Application

Receipt of the Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and Applicant's Arguments/Remarks, both filed 02/07/05 and the Response to Restriction/Election requirement and Applicant's Arguments/Remarks, both filed 06/09/05 is acknowledged.

In view of the allowability of pending claims 18, 21-28 and 30, the Restriction/Election requirement filed 05/04/05 is hereby withdrawn.

Claims 18, 19, 21-28 and 30 are pending. Claim 20 has been cancelled. Claims 18, 19, 21-28 and 30 are allowed.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/07/05 has been entered.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Darryl C. Little on August 08, 2005.

The application has been amended as follows:

In the Claims:

In Claim 18, line 3, after the term 'agent', the phrase **"selected from the group consisting of xanthan gum, locust bean gum, carrageenan, guar gum and mixtures thereof"** has been added.

In Claim 18, line 9, after the term 'least' the word "*two*" has been replaced with the term **"two"**.

In Claim 18, line 10, after the term 'menthol', the phrase **", wherein the total amount of said oils in said oil mixture is at least about 5 wt % of the total weight of ingredients"** has been added.

In Claim 18, line 13, after the term 'and' the term '*dissolves*' has been changed to '**dissolves**'.

In Claim 30, line 2, after the term 'pullulan', the term '*hydroxypropylmethyl*' has been changed to '**hydroxypropylmethyl**'.

Claim 20 has been cancelled.

Allowable Subject Matter

Claims 18, 19, 21-28 and 30 are allowed.

The following is an examiner's statement of reasons for allowance:

The primary reasons for allowance are that the prior art (Hijiya *et al.* US Pat. No. 4,562,020; Nair *et al.* WO 98/11867; & Zerbe *et al.* US Pat. No. 5,948,430) do not disclose nor fairly suggest a method for preparing a physiologically compatible film that comprises mixing a water soluble polymer and at least one stabilizing agent selected from the group consisting of xanthan gum, locust bean gum, carrageenan, guar gum and mixtures thereof to provide a film-forming mixture; dissolving water-soluble ingredients in water to provide an electrolyte-containing aqueous solution; combining said film-forming mixture and said aqueous solution to provide a hydrated polymer gel; mixing oils to form an oil mixture that comprises at least two essential oils selected from the group consisting of thymol, methyl salicylate, eucalyptol, and menthol, wherein the total amount of said oils in said oil mixture is at least about 5 wt % of the total weight of ingredients; adding said oil mixture to said hydrated polymer gel and mixing to provide a uniform gel; casting the uniform gel on a substrate; and drying the cast gel to provide a film that adheres to and dissolves in a consumer's mouth. The instant invention demonstrates an improvement over prior art formulations because it provides for a physiologically acceptable film that is particularly well adapted to adhere to and dissolve in the mouth of a consumer to deliver an antimicrobial agent that kills germs that cause halitosis, dental plaque and gingivitis. Thus, the film can be an effective tool in the treatment of halitosis, dental plaque accumulation, dental tartar accumulation and gingivitis. Additionally, the instant film provides for increased

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antimicrobial efficacy achieved through a surprisingly low total amount of essential oils per unit dose when compared with prior art formulations (*i.e.*, Listerine®).

In the telephonic interview held on 08/08/05, suggestions were made by the Examiner and her supervisor to Applicant's representative to identify and incorporate specific stabilizing agents (listed on pg 12 of instant specification & Tables 2-4) into generic claim 18 and to also include the claim limitations of instant claim 20, which recite the specific amount of oils, into generic claim 18, which would place the application in condition for allowance. Applicant's representative agreed to the claim amendment suggestions proposed by the Examiners. Accordingly, the instant invention is rendered non-obvious and *patentable* over the cited art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday through Friday from 8:00A.M. to 5:30P.M., alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

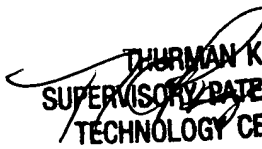
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H. N. Sheikh 

Patent Examiner

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August 08, 2005


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